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Attorney for Plaintiff YGNACIO FLORES

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

YGNACIO FLORES

Case No.: C 10 02396 (MEJ)

Plaintiff,

JOINT CASE MANAGEMENT
CONFERENCE STATEMENT

-vs-

CITY OF HAYWARD, and K. LANDRETH,

Date: March 17, 2011

Time: 1:30 p.m.

Courtroom: B

Defendants

1. Jurisdiction.

Plaintiff:

Jurisdiction is based on Title 28 U.S.C. Sections 1331, 1343 and 1341 and as stated in the complaint.

Defendants:

All named parties are purportedly subject to the Court's jurisdiction pursuant to Title 28 of the United States Code Sections 1331 and 1343. Defendants CITY OF HAYWARD ("City") and K. LANDRETH ("Landreth") filed a motion to dismiss all state claims. Pursuant to Court Order all state claims plead against Defendants were dismissed with prejudice. Defendants

1 answered as to plaintiff's remaining federal claims.

2 2. Substance of Action.

3 **Plaintiff's Claim:**

4 On February 4, 2009, Plaintiff was being detained by two police officers for suspicion of
5 earlier fleeing the police in a vehicle. He was unarmed and under their control. He was not
6 engaged in assaultive behavior, not resisting arrest or interfering with the police officer's
7 execution of duties. Defendant Officer K. Landreth then approached the scene with his police
8 service dog, and released the dog who had been under his control resulting in severe and
9 permanent injuries to Plaintiff.

10 **Defendants' Claim:**

11 On February 4, 2009, at approximately 3:40 a.m., Alameda County Sheriff's Office
12 ("ACSO") attempted to stop a vehicle driven by Plaintiff Ygnacio Flores ("Flores") with three
13 passengers to determine their involvement in numerous automobile thefts. Rather than stop,
14 Flores' vehicle lead ACSO on a high speed pursuit at speeds of approximately 95 miles per hour
15 on Highway 880 and city streets which terminated when the vehicle crashed in front of 215
16 Parrot Street in San Leandro. Four persons fled from the vehicle on foot including Flores. ACSO
17 set up a perimeter in the area of Washington Boulevard and Parrot Street. Hayward Police
18 Department ("HPD") Officer Landreth responded to the area with his police service dog ("PSD")
19 to assist with the search. Landreth and his PSD searched several residential yards. Landreth
20 announced several times, "Hayward Police with a K9! Surrender to an officer now or the dog
21 will find you and bite you!". Flores failed to reply and did not surrender. Due to darkness,
22 obstructions to his field of vision, and in the interests of officer safety, Landreth commanded the
23 PSD to search for Flores. The PSD made contact with Flores. Flores was taken into custody by
24 ACSO.

25 3. Identification of Issues

26 **Plaintiff:**

27 The main issues involve whether the Defendants actions constituted unreasonable and excessive
28 use of force; whether Defendants actions subject them to punitive damages, whether Plaintiff's

damages were cause by defendant's actions and whether Defendant City is liable.

Defendants: The principal issues in dispute are the following: whether the force used by the Defendant police officer was reasonable; whether Defendant police officer is entitled to qualified immunity; whether Plaintiff's damages were caused by Defendant's action; whether the City is liable for Defendant police officer's conduct; whether Plaintiff is entitled to an award of punitive damages.

4. Narrowing of Issues.

Plaintiff:

Same as #3.

Defendants: That the force used by the Defendant police officer, if any, was reasonable; that Defendant police officer is entitled to qualified immunity; that Plaintiff's damages were caused by Defendant's action; that the City is liable for Defendant police officer's conduct; that Plaintiff is entitled to an award of punitive damages.

5. Motions

Plaintiff: Motion to Restore Stated Causes of Action

Defendants: Absent agreement, dispositive motion re above.

6. Relief. Plaintiff prays for the following damages according to proof: compensatory damages, punitive damages; attorneys fees and costs.

7. Evidence Preservation/Disclosures/Discovery.

The parties anticipate that initial disclosures shall be made on or before the initial case management conference. The parties anticipate conducting discovery as per the protocol defined in the FRCP including taking the depositions of all parties, and third party witnesses. In the event that the number of witnesses to be deposed exceeds the maximum under the FRCP, the parties shall seek relief from the Court. The parties also anticipate serving written discovery including but not limited to interrogatories, request for production of documents, request for admissions, and subpoena duces tecum prior to the non-expert discovery cut-off date.

8. ADR. On December 8, 2010, the parties completed three hours of mediation. The parties were set to continue the mediation process on February 16, 2011, however due to outstanding

discovery, the mediation will be reset to May 2011.

9. Trial. The parties anticipate a ten-day trial, including jury selection.

10. Related Cases. None.

11. Proposed Schedule:

To assist with the mediation process and given the facts in dispute, plaintiff served defendants with written discovery which is due for response in early March 2011. Plaintiff also desires to complete some depositions including the plaintiff and involved officer(s) before the next mediation session takes place. Accordingly, the parties anticipate that the aforementioned discovery will likely be completed in April 2011, with the mediation process to be completed in May 2011.

Since the mediation is not yet complete, it is premature to set a schedule at this time. Accordingly, in the interests of judicial economy, the parties propose that this matter be reset for further case management conference after the mediation process is completed, on June 9, 2011, or at a later date so the parties may further report on mediation progress.

12. Disclosure of Non-party Interested Entities or Persons. Plaintiff plans to file/filed his required disclosure pursuant to Civil Local Rule 3-16. Pursuant to Civil Local Rule 3-16, Plaintiff certifies that as of this date, other than the named parties, there is no such interest to report. Defendants are exempt from filing the Disclosure of Non-party Interested Entities or Persons pursuant to Local Rule 3-16.

DATED: February 25, 2011

LAW OFFICES OF FRANK L. TRIDENTE

By: /s/
FRANK L. TRIDENTE
Attorney for Plaintiff YGNACIO FLORES

DATED: February 25, 2011

MICHAEL S. LAWSON, City Attorney

By: /s/
RANDOLPH S. HOM,
Assistant City Attorney
Attorneys for Defendants CITY OF HAYWARD
and K. LANDRETH